

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION (AKRON)

In re:

SEAN SABOLESKY and
KERRI SABOLESKY,
Debtors.

CHAPTER 7 CASE NO.: 18-52205

JUDGE: ALAN M. KOSCHIK

**MOTION TO AVOID JUDICIAL LIEN
OF MIDLAND FUNDING LLC**

Debtors, by and through undersigned counsel, and in support of this Motion to Avoid Judicial Lien, state to the Court as follows:

1. The Court has jurisdiction over this proceeding under 28 USC 1334(b).
2. Debtors filed a petition under Chapter 7 of the Bankruptcy Code on or about September 13, 2018.
3. At the time of the filing, a judicial lien was recorded against Debtors' real estate which is occupied as the homestead, specifically:

Midland Funding LLC lien number JL-201011127 recorded on 10/18/2010 in the amount of \$4,586.96 (plus interest and costs), resulting from a judgment in case number 10 CV 04441 in the Akron Municipal Court of Summit County, Ohio.

4. At the time the bankruptcy petition was filed, Debtor's homestead was valued at approximately \$63,960 and was encumbered by a mortgage held by Federal National Mortgage Association with an approximate balance of \$62,960.10.
5. Pursuant to ORC 2329.66(A)(1), Debtors are entitled to exempt \$999.90 worth of equity in their homestead.
6. According to the formula set forth in 11 USC 522(f)(2)(A), the judicial lien held by the above named creditor impairs the homestead exemption to which Debtors are entitled under ORC 2329.66(A)(1) and as such is avoidable pursuant to 11 USC 522(f)(1)(A).
7. Avoiding the judicial lien held by the above creditor is necessary for Debtors' fresh start.

WHEREFORE, Debtors request that this Court avoid the judicial lien held by Midland Funding LLC in its entirety in that said lien impairs Debtors' homestead exemption, and grant such further relief as is just and equitable.

Respectfully submitted,

/s/ Rebecca J. Sremack
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Counsel for Debtors

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2018, a copy of the foregoing ***Motion to Avoid Judicial Lien Held by Midland Funding LLC*** was filed electronically via this Court's ECF system and served upon all parties indicated on the electronic filing receipt, including:

The Chapter 7 Trustee (Harold A. Corzin)
The U.S. Trustee
Edward A. Bailey, attorney for mortgagee Federal National Mortgage Association

It was also sent this same day by regular mail to the following:

Sean and Kerri Sabolesky
1647 Redwood Ave.
Akron OH 44301

Midland Funding LLC
2365 Northside Dr #300
San Diego CA 92108

Nevenka Pavlovic
c/o Midland Funding LLC
PO Box 30968
Middleburg Heights, OH 44130

/s/ Rebecca J. Sremack
Rebecca J. Sremack #0092313
Counsel for Debtors